

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONSANTO COMPANY AND
MONSANTO TECHNOLOGY, LLC,

Plaintiff,

v.

BILLY KING,

Defendant.

Case No. 4:09-cv-1970 TCM

CONSENT JUDGMENT

PARTIES

Plaintiffs are Monsanto Company and Monsanto Technology, LLC (sometimes referred to hereinafter as Monsanto). Monsanto Company is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri. Monsanto Technology, LLC is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri.

Defendant, Billy King, is a natural person, residing in North Carolina, and engages in commercial farming and in North and South Carolina.

STIPULATED FINDINGS

Subject matter jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §1331, in that one or more of Monsanto's claims arise under the laws of the United States, as well as 28 U.S.C. §1338, granting district courts original jurisdiction over any civil action regarding patents.

Venue is proper in this judicial district because the parties in this action agreed to personal jurisdiction in this judicial district and have designated this Honorable Court as the exclusive forum and venue for all disputes arising under the licensing agreement executed by

Defendant.

Monsanto is in the business of developing, manufacturing, licensing, and selling agricultural biotechnology, agricultural chemicals and other agricultural products. After the investment of substantial time, expense, and expertise, Monsanto invented an agricultural biotechnology consisting of genetic traits that enable crops to express resistance to glyphosate based herbicides such as Roundup® branded herbicides.

This biotechnology has been utilized by Monsanto in several agricultural crops, including soybeans, and enables the soybeans to be treated with glyphosate based herbicides without being damaged. This genetically improved soybean seed is marketed by Monsanto and other seed companies as Roundup Ready® soybeans.

Monsanto's Roundup Ready® biotechnology is protected under patents issued by the United States Patent Office, specifically including U.S. Patent Nos. RE39,247 E and 5,352,605. Prior to the events giving rise to this action, the '247 and '605 patent were issued and/or Monsanto was the exclusive licensee from the owner and was authorized to enforce the rights relating thereto, including seeking injunctive and monetary relief and remedy for the infringement thereof.

Monsanto placed the required statutory notice that its Roundup Ready® biotechnology was patented on the labeling of all bags containing Roundup Ready® soybean seed in compliance with 35 U.S.C. §287(a). In particular, each bag of Roundup Ready® soybeans are marked with notice of the '605 patent.

Under the terms of Monsanto's limited use license agreements through which Roundup Ready® soybeans are sold, a purchaser is only authorized to use the seed for planting a commercial crop in a single growing season, and is prohibited from saving harvested seed for the

purpose of planting a subsequent crop. In addition, the user is prohibited from selling saved seed or supplying or transferring any seed produced from the purchased seed to third parties for planting.

Defendant admits that he planted Roundup Ready® soybeans without authorization during the 2004 through 2009 crop years. Defendant's actions of planting unauthorized Roundup Ready® soybeans infringes U.S. Patent Nos. RE39,247 E and 5,352,605.

The Defendant's planting of saved Roundup Ready® soybeans without authorization from Monsanto constitutes patent infringement with a deliberate and wilful disregard of Monsanto's patent rights in the '247 and '605 patents pursuant to 35 U.S.C. §271(a).

The Defendant's infringing activities of planting saved Roundup Ready® soybeans without authorization were intentional and willful.

Defendant is represented by North Carolina counsel who has not entered his appearance in this case, but who has counseled with and advised the Defendant with respect to the Consent Judgment.

MONETARY DAMAGES

By consent of the parties, judgment is entered against Defendant, Billy King, in favor of Monsanto in the amount of TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00).

IT IS SO ORDERED.

Dated ^{Feb} January 9, 2010.


United States Magistrate Judge